

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

STEVEN C. HEATON,)	
)	
Plaintiff,)	8:06CV2
)	
v.)	
)	
UNITED STATES POSTAL SERVICE,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the court on the court's own motion. The plaintiff has filed a complaint against the United States Postal Service and paid the \$250 filing fee. Because the plaintiff is a nonprisoner who has paid the filing fee in full, it is now time for service of process on the defendant. The plaintiff has attempted to effect service of process on the defendant but has failed to comply with Fed. R. Civ. 4.

Pursuant to 39 U.S.C. § 409, which governs suits by and against the Postal Service, "the provisions of title 28 relating to service of process, venue . . . and the rules of procedure adopted under title 28 for suits in which the United States, its officers, or employees are parties shall apply in like manner to suits in which the Postal Service, its officers, or employees are parties."

THEREFORE, IT IS ORDERED:

1. The plaintiff shall review the "Notice regarding Federal Rule of Civil Procedure 4(l)" which is set forth on page 3 of this Order.
2. The Clerk of Court shall provide the plaintiff with the appropriate number of summons forms for service of process on the United States of America and a copy of this order.
3. The plaintiff may serve the summons and complaint on the defendant by any method permitted under Rule 4 of the Federal Rules of Civil Procedure. The Federal Rules of Civil Procedure are available at any law library and on the court's web site at www.ned.uscourts.gov. When serving the summons, each summons must be accompanied by a copy of the complaint. Service of the complaint and summons may be effected by any person who is not a party and who is at least 18 years of age. Rule 4 of the Federal Rules of Civil Procedure authorizes service of process pursuant to the law of the state in which the district court is located.

4. The plaintiff is hereby notified that failure to obtain service on a defendant within 120 days of the filing of the complaint may result in dismissal of this matter without further notice, as against that defendant.

5. After a defendant has appeared in the case, the plaintiff shall serve upon such defendant or, if an appearance has been entered by counsel, upon such counsel, a copy of every future pleading or other document submitted to the court. Litigants in this district usually serve copies of motions and other documents on adverse parties by first class mail, postage prepaid. The plaintiff shall include with each original document submitted to the court a “**Certificate of Service**” stating the date a true and correct copy of such document was mailed to each defendant or the attorney of a represented defendant. It is a violation of the rules of court to send communications to the court without serving a copy on the other parties to the case.

6. After receipt of the summons, the defendant shall file responsive pleadings or motions within the time allowed by Rule 12 of the Federal Rules of Civil Procedure.

7. The plaintiff shall keep the court informed of the plaintiff’s current address at all times while this case is pending.

9. As well as the Federal Rules of Civil Procedure, the plaintiff is bound by the Local Rules of this court in the prosecution of this case. The local rules are available at the office of the Clerk of Court, and also on the court's web site at www.ned.uscourts.gov.

DATED this 17th day of March, 2006.

BY THE COURT:

S/ F. A. Gossett
United States Magistrate Judge

Notice regarding Federal Rule of Civil Procedure 4(l)

Federal Rule of Civil Procedure 4(l) regarding “[s]erving the United States, Its Agencies, Corporations, Officers, or Employees,” states:

(1) Service upon the United States shall be effected

(A) by delivering a copy of the summons and of the complaint to the **United States attorney for the district in which the action is brought** or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney and

(B) by also sending a copy of the summons and of the complaint by registered or certified mail to the **Attorney General of the United States** at Washington, District of Columbia, and

(C) in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to **the officer or agency**.

(2) (A) Service on an agency or corporation of the United States, or an officer or employee of the United States sued only in an official capacity, is effected by serving the United States in the manner prescribed by Rule 4(i)(1) and by also sending a copy of the summons and complaint by registered or certified mail to the officer, employee, agency, or corporation.

(B) Service on an officer or employee of the United States sued in an individual capacity for acts or omissions occurring in connection with the performance of duties on behalf of the United States--whether or not the officer or employee is sued also in an official capacity--is effected by serving the United States in the manner prescribed by Rule 4(i)(1) and by serving the officer or employee in the manner prescribed by Rule 4 (e), (f), or (g).

(3) The court shall allow a reasonable time to serve process under Rule 4(i) for the purpose of curing the failure to serve:

(A) all persons required to be served in an action governed by Rule 4(i)(2)(A), if the plaintiff has served either the United States attorney or the Attorney General of the United States, or

(B) the United States in an action governed by Rule 4(i)(2)(B), if the plaintiff has served an officer or employee of the United States sued in an individual capacity.